(3)

CF1006

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

W.P. NO. 1820 /2003

PETITIONER : Chandra Prakash Sharma s/o Shri K.N. Sharma, aged about 37 years Posted at I.C.D.S. Block Bastar, District Bastar (C.G.) Permanent Address - Mission Road Patel para, Korba (C.G.)

VERSUS

RESPONDENTS :

1. State of C.G. Through - Secretary, Department of Integrated Child Development Programme and Social Welfare at secretiate D.K.S. Bhawan, Raipur (C.G.).

2. Director, Department of Integrated Child Development Programme and Social Welfare, Raipur (C.G.).

3. Collecter District Bastar (C.G.)

P.R. No. 1620/03
Presented by Shri Rajesh Varma
dated 19.06.03

19/6/03

PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(22)

आदेश पत्रक

मामला क्रमांक W.P. 1820/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25.06.2003 Shri Ravish Verma, counsel for the petitioner. Shri Sanjay K. Agrawal, Deputy Advocate General for the State / respondents. By this petition under Article 226 & 227 of the Constitution of India, the petitioner seeks to challenge the order dated 3rd February, 2003, passed by the Under Secretary, Department of Women & Child Development and Social Welfare, Raipur, by which the petitioner has been transferred from Project: Bastar, Distt. Jagdalpur to Project: Konta, Distt. Dantewada as Project Officer. It has been mentioned in Para 5.5 of the petition that the petitioner has been transferred with mala-fide intention in arbitrary manner. The petitioner is a Class-II employee and for the time being his first transfer order from Bastar to Raipur was stayed by the Secretary. The petitioner has again been transferred to another place which is arbitrary and illegal. Therefore, the respondents be	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(23)

आदेश पत्रक

मामला क्रमांक W.P.1820/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

directed to post the petitioner at previous place of posting i.e. Raipur or where at present the petitioner is serving.

I have heard the learned counsel for the parties.

Learned counsel for the petitioner argued that the petitioner was working as Assistant Statistical Officer at Bastar since 1990. On his promotion on the post of Project Officer in the year 2000, he was transferred to Raipur. However, on the request of the Collector, Bastar, his transfer was stayed by the Secretary of the Department and since then he is continuing there. Learned counsel further argued that without cancelling the transfer, now he has been transferred to Konta, Distt. Dantewada and without cancelling the posting at Raipur this transfer is not justified.

The facts of this petition are undisputed. The petitioner is working in Bastar since 1990. Even on promotion he was retained in that area and in fact this is the first transfer of the petitioner after 13 years which he is stating as arbitrary and mala-fide transfer without giving specific instances how it is arbitrary and mala-fide. As

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(24)

आदेश पत्रक

मामला क्रमांक W.P.1820/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

has been held by the Hon'ble Supreme Court in the case of National Hydroelectric Power Corporation Ltd. vs. Shri Bhagwan and another reported in 2001 AIR SCW 3548 that

> *"no Government servant or employee of Public Undertaking has any legal right to be posted forever at any one particular place since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala-fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer the Courts or the Tribunals cannot interfere with such orders as a matter of routine."*

In view of the above law laid down by the Hon'ble Supreme Court and in view of the fact that the petitioner is working at Bastar since 1990, since more than 13 years he has not been transferred any

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(25)

आदेश पत्रक

मामला क्रमांक W.P.1820/ **सन्** 2003

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विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

where and this is the first transfer, by any stretch of imagination it cannot be said that the transfer of the petitioner is mala fide and arbitrary one.

In view of the above facts this petition is not a bona fide petition, rather the petitioner has attempted to misuse the judicial process, as such, the petition is liable to be dismissed and it is dismissed with a cost of Rs.1,000/- (Rupees one thousand only) and one month's time is allowed to deposit the cost. On depositing the cost the same be sent to the State Legal Aid Cell. If the cost is not deposited within a period of one month, the concerned employer may deduct the same from the salary of the petitioner and send it to the State Legal Aid Cell with an intimation to this Court.

Consequently, M.(W.)P.No.1649/2003 and I.A.No.5453/2003 stand disposed of.

Sd/-
L.C.BHADOO
Judge

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